IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE CIVIL JURISDICTION

WRIT PETITION NO. 1551 OF 2006

Valaji Saamji..... .... Petitioner.

Versus

Mrs. Aminabai Tayebali..... ... Respondent.

Mr. V.S.Kapse for the Petitioner.
None for the Respondent.

CORAM : B.H.MARLAPALLE, J.

DATED : 20TH APRIL, 2007.

P.C.:

Heard Mr. V. S. Kapse, learned Counsel for the petitioner.

2. The petitioner is the defendant in R.A.E. & R. Suit No. 992/ 1812 of 2004. In the said suit the defendant took out Interim Notice No. 1191 of 2005 through his son and the said notice has been made absolute. The defendant himself has filed the present writ petition, as he claims that he is aggrieved by the order allowing him to deposit the rent at Rs.2,388/- per month from March, 2003 till the date

plus increase in the permitted increases for the period from 1st April, 2001 to 28th February, 2003 at Rs.1,947/- per month amounting to Rs.44,781/- plus interest at 15% per annum plus costs of suit amounting to Rs.12,849/-. This amount was directed to be deposited within a period of one month. Admittedly, this amount has not been deposited and Mr. Kapse, learned Counsel for the petitioner, now says that as per the letter dated 1st March, 2007 received from the Municipal Corporation of Greater Mumbai, the Corporation tax amount is reduced with effect from 1st April, 2007. If that be so, he is at liberty to apply before the Small Causes Court for reviewing the amount directed to be deposited as per the impugned order.

3. Mr. Kapse, learned Counsel, further states that before such an application is made, it is possible that the plaintiff may withdraw the amount that will be deposited by the petitioner.

4. The petitioner is directed to deposit the total amount as per the impugned order within two weeks from today and if the petitioner files an application for revision of the deposit amount with effect from 1st

April, 2007 on the basis of the Assessment Order dated 1st March, 2007 issued by the Municipal Corporation of Greater Mumbai, the said application shall be heard and decided on its own merits by the Small Causes Court before the plaintiff is allowed to withdraw the entire amount.

5. Save and except the above direction, the writ petition stands rejected.

Sd/-

(B. H. MARLAPALLE, J.)